

## WC 16.04.170 Board of Zoning Appeals

A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance with the procedures of IC 36-7-4 and all acts now or hereafter amendatory thereto.

- A. At the first meeting of each year, the Board shall elect a chairman and a vice-chairman from among its members.
- B. The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this ordinance.
- C. All meetings of the Board shall be open to the public. The board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be a public record.
- D. Any decision of the Building Commissioner in enforcement of this Ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.
- E. The board shall have the following powers and it shall be its duty to:
  - 1. Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Commissioner in the enforcement of this Ordinance.
  - 2. Permit or deny special exceptions, special or contingent uses, or conditional uses from the requirements of the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval.
  - 3. Approve variances that:
    - a) Will not be injurious to the public health, safety, morals, and general welfare of the community;
    - b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
    - c) The need for the variance arises from some condition particular to the property involved;
    - d) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

- e) Does not interfere substantially with the comprehensive plan.
- F. In exercising its powers, the Board may reverse or affirm wholly or partly, or may modify the order, requirements, decisions or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Building Commissioner and Planner from whom the appeal is taken.
- G. Every decision of the Board shall be subject to review by certiorari.
- H. The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk or area) of the Zoning Ordinance. A variance may be approved under this section only upon a determination that:
  - 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
  - 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
  - 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.
- I. Any request not approved by the Board of Zoning Appeals may be resubmitted after 12 months from the date of the Board of Zoning Appeals action.
- J. The board shall be governed by the provisions of WC 16.04.080 concerning variances applicable to the flood plain district.